



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Baylor Surgical Hospital

Respondent Name

Ace American Insurance

MFDR Tracking Number

M4-14-3394-01

Carrier's Austin Representative

Box Number 15

MFDR Date Received

July 14, 2014

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "Our office was notified on 02/28/2014 that the above services should be billed to the workers compensation carrier. After our initial billing the services were denied for timely filing. On 04-07-2014 our office submitted a reconsideration request to Gallagher-Bassett which the carrier has failed to respond to."

Amount in Dispute: \$20,609.12

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: Written acknowledgment of medical fee dispute received however no written response submitted.

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
November 7 – 10, 2013	Inpatient Hospital Surgical Services	\$20,609.12	\$20,472.95

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.404 sets out the guidelines for reimbursement of hospital facility fees for inpatient services.
3. 28 Texas Administrative Code §133.20 sets out requirements for medical bill submission by health care providers.
4. The services in dispute were reduced/denied by the respondent with the following reason codes:
 - 29 – The time limit for filing has expired

Issues

1. Did the requestor support claim submitted timely once notice of workman's compensation claim received?
2. Which reimbursement calculation applies to the services in dispute?
3. What is the maximum allowable reimbursement for the services in dispute?

4. Is the requestor entitled to additional reimbursement for the disputed services?

Findings

1. The Division placed a copy of the Medical Fee Dispute Resolution request in the insurance carrier's Austin representative box, which was acknowledged, received on July 25, 2014. Per 28 Texas Administrative Code §133.307(d)(1), "The response will be deemed timely if received by the division via mail service, personal delivery, or facsimile within 14 calendar days after the date the respondent received the copy of the requestor's dispute. If the division does not receive the response information within 14 calendar days of the dispute notification, then the division may base its decision on the available information." The insurance carrier did not submit any response for consideration in this dispute. Accordingly, this decision is based on the information available at the time of review.
2. 28 Texas Administrative Code §133.20(b) states in pertinent part, "Except as provided in Labor Code §408.0272(b), (c) or (d), a health care provider shall not submit a medical bill later than the 95th day after the date the services are provided. In accordance with subsection (c) of the statute, the health care provider shall submit the medical bill to the correct workers' compensation insurance carrier not later than the 95th day after the date the health care provider is notified of the health care provider's erroneous submission of the medical bill. A health care provider who submits a medical bill to the correct workers' compensation insurance carrier shall include a copy of the original medical bill submitted, a copy of the explanation of benefits (EOB) if available, and sufficient documentation to support why one or more of the exceptions for untimely submission of a medical bill under §408.0272 should be applied." Review of the submitted documentation finds;

- a. Notes with date February 28, 2014 were submitted by requestor stating, "Rcvd call from patient stating we billed incorrect INS. Stated this should be a W/C claim."

- b. Notes with date March 7, 2014 were submitted by requestor stating, "Paper claim mailed today."

The Division finds the respondent provided no documentation to dispute that a claim was submitted by the requestor with documentation to support the erroneous submission of the medical bill meeting the exception described in Rule 133.20(b). Therefore, the carrier's denial is not supported and the disputed services will be reviewed per applicable rules and fee guidelines.

3. 28 Texas Administrative Code §134.404(e) states that: "Except as provided in subsection (h) of this section, regardless of billed amount, reimbursement shall be:
 - (1) the amount for the service that is included in a specific fee schedule set in a contract that complies with the requirements of Labor Code §413.011; or
 - (2) if no contracted fee schedule exists that complies with Labor Code §413.011, the maximum allowable reimbursement (MAR) amount under subsection (f) of this section, including any applicable outlier payment amounts and reimbursement for implantables."

No documentation was found to support the existence of a contractual agreement between the parties to this dispute; therefore the MAR can be established under §134.404(f).

4. 28 Texas Administrative Code §134.404(f) states that "The reimbursement calculation used for establishing the MAR shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors as published annually in the Federal Register. The following minimal modifications shall be applied.
 - (1) The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by:
 - (A) 143 percent; unless
 - (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 108 percent."

Review of the documentation finds that that the facility requested separate reimbursement for implantables; for that reason, the requirements of subsection (g) apply.

5. 28 Texas Administrative Code §134.404(g) states, in pertinent part, that "(g) Implantables, when billed separately by the facility or a surgical implant provider in accordance with subsection (f)(1)(B) of this section, shall be reimbursed at the lesser of the manufacturer's invoice amount or the net amount (exclusive of rebates and discounts) plus 10 percent or \$1,000 per billed item add-on, whichever is less, but not to exceed \$2,000 in add-on's per admission.
 - (1) A facility or surgical implant provider billing separately for an implantable shall include with the billing a certification that the amount billed represents the actual costs (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: "I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge."

Review of the documentation found supports that the following items were certified as required by (g):

Itemized Statement Rev Code or Charge Code	Itemized Statement Description	Cost Invoice Description	# Units & Cost Per Unit	Cost Invoice Amount	Per item Add-on (cost +10% or \$1,000 whichever is less).
278 or other disputed (b)(2) items	Cement bone G-HV Cobalt	n/a none provided	1 at \$298.00 ea	n/a	not found in operative report
278 or other disputed (b)(2) items	Cement bone G-HV Cobalt	n/a none provided	1 at \$298.00 ea	n/a	not found in operative report
278 or other disputed (b)(2) items	Patella 37mm three peg	Description from cost invoice	1 at \$343.00 ea	\$343.00	\$377.30
278 or other disputed (b)(2) items	Femur 75mm Vanguard	Description from cost invoice	1 at \$2,226.00 ea	\$2,226.00	\$2,448.60
278 or other disputed (b)(2) items	Tibial bearing	Description from cost invoice	1 at \$2,852.00 ea	\$2,995.00	\$3,294.50
278 or other disputed (b)(2) items	Plate 79mm cruciate	Description from cost invoice	1 at \$1,171.00 ea	\$1,171.00	\$1,288.10
				\$6,735.00	\$7,408.50
				Total Supported Cost	Sum of Per-Item Add-on

The division finds that the facility supported separate reimbursement for these implantables, and that the cost invoices were certified as required. Therefore, the MAR is calculated according to §134.404(f)(1)(B).

6. §134.404(f)(1)(B) establishes MAR by multiplying the most recently adopted and effective Medicare Inpatient Prospective Payment System (IPPS) reimbursement formula and factors (including outliers) by 108%, **plus** reimbursement for items appropriately certified under §134.404(g). The Medicare IPPS payment rates are found at <http://www.cms.gov>, and the sum of the per-item add-on for which separate reimbursement was requested are taken from the table above.

- Documentation found supports that the DRG assigned to the services in dispute is 470, and that the services were provided at Baylor Surgical Hospital at Fort Worth. Consideration of the DRG, location of the services, and bill-specific information results in a total Medicare facility specific allowable amount of \$12,096.71 This amount multiplied by 108% results in an allowable of \$13,064.45
- The total cost for implantables from the table above is \$6,735.00. The sum of the per-billed-item add-ons does not exceed the \$2,000 allowed by rule; for that reason, total allowable amount for implantables is \$6,735.00 plus \$673.50 which equals \$7,408.50.

Therefore, the total allowable reimbursement for the services in dispute is \$13,064.45 plus \$7,408.50 which equals \$20,472.95. The respondent issued payment in the amount of \$0.00. Based upon the documentation submitted, additional reimbursement in the amount of \$20,472.95 is recommended.

Conclusion

For the reasons stated above, the division finds that the requestor has established that additional reimbursement is due.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent

to remit to the requestor the amount of \$20,472.95 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	February 26, 2015
Signature	Medical Fee Dispute Resolution Officer	Date

_____	_____	February 26, 2015
Signature	Medical Fee Dispute Resolution Manager	Date
Date		

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, effective May 31, 2012, *37 Texas Register 3833*, **applicable to disputes filed on or after June 1, 2012.**

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.